

RELIEF WHERE FORMAL CONTRACTS HAVE NOT BEEN
MADE IN THE MANNER REQUIRED BY LAW.

FEBRUARY 11, 1919.—Ordered to be printed.

MR. DENT, from the committee of conference, submitted the following

CONFERENCE REPORT.

[To accompany H. R. 13274.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows:

In lieu of the matter proposed by the Senate amendment insert the following:

That the Secretary of War be, and he is hereby, authorized to adjust, pay, or discharge any agreement, express or implied, upon a fair and equitable basis that has been entered into, in good faith during the present emergency and prior to November twelfth, nineteen hundred and eighteen, by any officer or agent acting under his authority, direction, or instruction, or that of the President, with any person, firm, or corporation for the acquisition of lands, or the use thereof, or for damages resulting from notice by the Government of its intention to acquire or use said lands, or for the production, manufacture, sale, acquisition or control of equipment, materials or supplies, or for services, or for facilities, or other purposes connected with the prosecution of the war, when such agreement has been performed in whole or in part, or expenditures have been made or obligations incurred upon the faith of the same by any such person, firm, or corporation prior to November twelfth, nineteen hundred and eighteen, and such agreement has not been executed in the manner prescribed by law: Provided, That in no case shall any award either by the Secretary of War, or the Court of Claims include prospective or possible profits on any part of the contract be-

yond the goods and supplies delivered to and accepted by the United States and a reasonable remuneration for expenditures and obligations or liabilities necessarily incurred in performing or preparing to perform said contract or order: Provided further, That this Act shall not authorize payment to be made of any claim not presented before June thirtieth, nineteen hundred and nineteen: And provided further, That the Secretary of War shall report to Congress at the beginning of its next session following June thirtieth, nineteen hundred and nineteen, a detailed statement showing the nature, terms, and conditions of every such agreement and the payment or adjustment thereof: And provided further, That no settlement of any claim arising under any such agreement shall bar the United States Government through any of its duly authorized agencies, or any Committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right of recovery of any money paid by the Government to any party under any settlement entered into, or payment made under the provisions of this Act, if the Government has been defrauded, and the right of recovery in all such cases shall exist against the executors, administrators, heirs, successors, and assigns, of any party or parties: And provided further, That nothing in this Act shall be construed to relieve any officer or agent of the United States from criminal prosecution under the provisions of any statute of the United States for any fraud or criminal conduct: And provided further, That this Act shall in no way relieve or excuse any officer or his agent from such criminal prosecution because of any irregularity or illegality in the manner of the execution of such agreement: And provided further, That in all proceedings hereunder witnesses may be compelled to attend, appear, and testify, and produce books, papers and letters, or other documents; and the claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding.

Sec. 2. That the Court of Claims is hereby given jurisdiction on petition of any individual, firm, company or corporation referred to in Section 1 hereof, to find and award fair and just compensation in the cases specified in said Section in the event that such individual, firm, company or corporation shall not be willing to accept the adjustment, payment or compensation offered by the Secretary of War as hereinbefore provided, or in the event that the Secretary of War shall fail or refuse to offer a satisfactory adjustment, payment or compensation as provided for in said Section.

Sec. 3. That the Secretary of War, through such agency as he may designate or establish is empowered, upon such terms as he or it may determine to be in the interest of the United States, to make equitable and fair adjustments and agreements, upon the termination or in settlement or readjustment of agreements or arrangements entered into with any foreign government or governments or nationals thereof, prior to November twelfth, nineteen hundred and eighteen, for the furnishing to the American Expeditionary Forces or otherwise for War purposes of supplies, materials, facilities, services or the use of property, or for the furnishing of any thereof by the

United States to any foreign government or governments, whether or not such agreements or arrangements have been entered into in accordance with applicable statutory provisions; and the other provisions of this Act shall not be applicable to such adjustments.

Sec. 4. That whenever, under the provisions of this Act, the Secretary of War shall make an award to any prime contractor with respect to any portion of his contract which he shall have sublet to any other person, firm, or corporation who has in good faith made expenditures, incurred obligations, rendered service, or furnished material, equipment, or supplies to such prime contractor, with the knowledge and approval of any agent of the Secretary of War duly authorized thereunto, before payment of said award the Secretary of War shall require such prime contractor to present satisfactory evidence of having paid said subcontractor or of the consent of said subcontractor to look for his compensation to said prime contractor only; and in the case of the failure of said prime contractor to present such evidence or such consent, the Secretary of War shall pay directly to said subcontractor the amount found to be due under said award; and in case of the insolvency of any prime contractor the subcontractor of said prime contractor shall have a lien upon the funds arising from said award prior and superior to the lien of any general creditor of said prime contractor.

Sec. 5. That the Secretary of the Interior be, and he is hereby, authorized to adjust, pay, or discharge any agreement, express or implied, upon a fair and equitable basis the amount or amounts of money heretofore invested or contracted to be invested and obligations incurred in good faith by any and all persons, firms, or corporations for producing or in good faith acquiring property for producing, within the United States, for the purpose of supplying the urgent needs of the Nation during the war, any ores or mineral substances mentioned and enumerated in the Act entitled "An Act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of those ores, metals, and minerals which have formerly been largely imported, or of which there is or may be an inadequate supply"; approved October fifth, nineteen hundred and eighteen, the production of which was requested or demanded by the War Industries Board, the War Trade Board, the Shipping Board, the Emergency Fleet Corporation or the Department of the Interior and which has been performed in whole or in part by any such person, firm, or corporation prior to November twelfth, nineteen hundred and eighteen; and that said Secretary ascertain, determine, adjust, liquidate, and, out of the moneys provided and appropriated by said Act, pay to the parties justly entitled thereto the amounts of such losses and damages as he, the said Secretary shall find and determine to have been sustained by reason of having made said investments for said purposes, and that in each case he shall make such determination, provision, settlement, advancement, or final payment, or by agreement with claimants take such other action as he shall find and determine to be just and equitable; that the decision and action of said Secretary in such case shall be conclusive and final; that all payments shall be made, and all expenses incurred by the said Secretary shall be paid from the funds appropriated by the said Act of October fifth,

nineteen hundred and eighteen, and that said funds and appropriations shall continue to be available for said purposes until such time as the said Secretary shall have fully exercised the authority hereby granted and performed and completed the duties hereby provided and imposed: Provided, however, That said Secretary shall consider, approve and dispose of only such claims as shall be made hereunder and filed with the Department of the Interior within three months from and after the approval of this Act.

That a report of all operations under this section, including receipts and disbursements, shall be made to Congress or or before the first Monday in December of each year.

That nothing in this section shall be construed to confer jurisdiction upon any court to entertain a suit against the United States.

Amend the title so as to read: An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes.

And the Senate agree to the same.

W. J. FIELDS,
JULIUS KAHN,

Managers on the part of the House.

GEO. E. CHAMBERLAIN,
DUNCAN U. FLETCHER,
C. S. THOMAS,
F. E. WARREN,

Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The conferees agreed upon the general language of the House bill so far as section 1 is concerned, together with the provision adopted by the House requiring presentation of claims not later than June 30, 1919. The Secretary of War is required to report to Congress in detail a statement of the settlement made. No settlement shall bar the Government of the right of review and recovery for fraud and no officer or agent of the Government shall be relieved of liability for fraud or criminal conduct. This section contains a provision that witnesses may be compelled to attend and testify.

Section 2 gives the court of claims jurisdiction in the event of the settlement of the Secretary of War is not accepted.

Section 3 authorizes settlements with foreign Governments and their citizens upon the same terms and conditions as such Governments themselves settle their own contracts.

Section 4 authorizes the adjustment of the claims of subcontractors.

Section 5 provides for the settlement of mining contracts by the Secretary of the Interior.

W. J. FIELDS,
JULIUS KAHN,
Managers on the part of the House.

